



FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

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2 TO: The Commission
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16 SUBJECT: MURs 7106 & 7108 (Chappelle-Nadal for Congress, *et al.*)
17 Additional Recommendations and Revised Factual and Legal Analyses
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20 On March 6, 2018, the Commission voted to approve the recommendations contained in
21 the "Recommendations Section" of the First General Counsel's Report ("FGCR") for
22 MURs 7106 & 7108 (Chappelle-Nadal for Congress, *et al.*), including a single Factual & Legal
23 Analysis ("F&LA") for Maria Chappelle-Nadal, her federal committee, and her state committee
24 that covered both matters.¹ As explained below, we recommend that the Commission make three
25 additional findings with regard to Chappelle-Nadal's federal committee, and approve four
26 separate F&LAs covering the allegations made against Chappelle-Nadal, her federal committee,
27 and her state committee in MURs 7106 and 7108.
28

29 First, the "Recommendations Section" in the FGCR inadvertently omitted three "no
30 reason to believe" findings for allegations against Chappelle-Nadal's federal committee. These
31 findings were recommended in the analysis of the FGCR and included in the F&LA approved by
32 the Commission, but were not included in the "Recommendations Section."² In order to correct

¹ See Cert. (Mar. 6, 2018). The Commission's only change was to reduce the civil penalty for violations of 52 U.S.C. § 30125(e)(1)(B) by Maria Chappelle-Nadal and her state committee. See *id.* at 2.

² The Commission voted on only one of the allegations against the Federal Committee that were discussed in the FGCR — the Commission dismissed the allegation from MUR 7106 that the Federal Committee violated 52 U.S.C. § 30104(b) and 11 C.F.R. § 104.13(a) by failing to disclose the in-kind contribution of web services. See *id.* at 1. The Commission also voted to send a letter of caution in connection with this alleged violation. See *id.*

1 this error and have a complete resolution of these matters, we recommend that the Commission
2 make the following findings concerning the Federal Committee, which correspond to the
3 recommendations in the body of the FGCR and the findings in the approved F&LA: (1) in MUR
4 7106, find no reason to believe Chappelle-Nadal for Congress and George Lenard in his official
5 capacity as treasurer violated 52 U.S.C. § 30125(e)(1)(A) and 11 C.F.R. § 110.3(d);³ (2) in MUR
6 7106, find no reason to believe Chappelle-Nadal for Congress and George Lenard in his official
7 capacity as treasurer violated 52 U.S.C. § 30104(b) and 11 C.F.R. § 104.13(a) in connection with
8 television advertisements, a newspaper advertisement, a door hanger, and fund transfers;⁴ and
9 (3) in MUR 7108, find no reason to believe Chappelle-Nadal for Congress and George Lenard in
10 his official capacity as treasurer violated 52 U.S.C. §§ 30125(e)(1)(A) and 30104(b) and 11
11 C.F.R. § 104.13(a).⁵

12
13 Additionally, the Commission approved a single F&LA for Chappelle-Nadal, the Federal
14 Committee, and the State Committee. Although the F&LA approved by the Commission
15 includes the findings from both MUR 7106 and 7108, upon further review, we determined that
16 including Chappelle-Nadal, the Federal Committee, and the State Committee in one F&LA,
17 addressing both matters, presents confidentiality concerns. Chappelle-Nadal and the State
18 Committee responded separately from the Federal Committee, and MUR 7108 is closed while
19 MUR 7106 remains open. To resolve these concerns, we have divided the previously approved
20 F&LA into four revised F&LAs. The substance of each of the revised F&LAs matches the
21 substance of the F&LA already approved by the Commission. Thus, we recommend that the
22 Commission approve the attached F&LAs for: (1) Chappelle-Nadal and the State Committee in
23 MUR 7106; (2) the Federal Committee in MUR 7106; (3) the State Committee in MUR 7108;
24 and (4) the Federal Committee in MUR 7108.⁶

25
26 **RECOMMENDATIONS:**

27
28 **MUR 7106**

- 29
30 1. Find no reason to believe Chappelle-Nadal for Congress and George Lenard in his
31 official capacity as treasurer violated 52 U.S.C. § 30125(e)(1)(A) and 11 C.F.R.
32 § 110.3(d);
33
34 2. Find no reason to believe Chappelle-Nadal for Congress and George Lenard in his
35 official capacity as treasurer violated 52 U.S.C. § 30104(b) and 11 C.F.R.
36 § 104.13(a) in connection with the television advertisements, newspaper
37 advertisement, door hanger, and fund transfers; and

³ See FGCR at 10, 12, 14, 19, 22-23; F&LA at 8, 10-12, 16, 19.

⁴ See FGCR at 10 (television advertisements), 12-13 (newspaper advertisement), 19 (door hanger), 22-23 (transfers); F&LA at 8 (television advertisements), 10 (newspaper advertisement), 16 (door hanger), 19 (transfers).

⁵ See FGCR at 20; F&LA at 16.

⁶ Chappelle-Nadal is not a Respondent in MUR 7108.

3. Approve the attached Factual and Legal Analyses.

MUR 7108

1. Reopen MUR 7108;
2. Find no reason to believe Chappelle-Nadal for Congress and George Lenard in his official capacity as treasurer violated 52 U.S.C. §§ 30125(e)(1)(A) and 30104(b) and 11 C.F.R. § 104.3(a);
3. Approve the attached Factual and Legal Analyses; and
4. Close the file.

Attachments:

1. MUR 7106 Factual and Legal Analysis for Maria Chappelle-Nadal and Citizens for Maria Chappelle-Nadal
2. MUR 7106 Factual and Legal Analysis for Chappelle-Nadal for Congress and George Lenard in his official capacity as treasurer
3. MUR 7108 Factual and Legal Analysis for Citizens for Maria Chappelle-Nadal
4. MUR 7108 Factual and Legal Analysis for Chappelle-Nadal for Congress and George Lenard in his official capacity as treasurer

FEDERAL ELECTION COMMISSION

FACTUAL AND LEGAL ANALYSIS

RESPONDENTS: Maria Chappelle-Nadal MUR: 7106
Citizens for Maria Chappelle-Nadal and Neva
Taylor in her official capacity as treasurer

I. INTRODUCTION

This matter was generated by a Complaint filed with the Federal Election Commission (the "Commission") by Michelle C. Clay. The Complaint, together with its supplements, alleges that Maria Chappelle-Nadal, a Missouri State Senator and 2016 candidate for the U.S. House of Representatives, and her state campaign committee violated the soft money prohibitions in the Federal Election Campaign Act of 1971, as amended (the "Act"). The Complaints argue that Citizens for Maria Chappelle-Nadal (the "State Committee") influenced Chappelle-Nadal's federal candidacy by making contributions to state and local candidates and providing in-kind contributions and transfers to her federal committee, Chappelle-Nadal for Congress and George Lenard in his official capacity as treasurer (the "Federal Committee").

II. FACTUAL & LEGAL ANALYSIS

In 2003, Chappelle-Nadal registered Citizens for Maria Chappelle-Nadal with the Missouri Ethics Commission. She successfully ran for the Missouri House of Representatives in 2004, 2006, and 2008, and for the Missouri State Senate in 2010 and 2014.¹ After the 2014 election, she was term-limited from running for the Missouri State Senate again.² At that time, she had approximately \$200,000 in her State Committee's account.³ In January 2015,

¹ CO31173: *Citizens for Maria Chappelle-Nadal*, MO. ETHICS COMM'N, http://mec.mo.gov/MEC/Campaign_Finance/CF11_CommInfo.aspx (last visited Jan. 30, 2017).

² MO. CONST. art. III, § 8.

³ 2014 30-Day After General Election Report, Citizens for Maria Chappelle-Nadal (Dec. 4, 2014).

1 Chappelle-Nadal amended the State Committee's Statement of Organization to reflect that she
2 would be running for statewide office in 2020.⁴

3 Chappelle-Nadal also filed a Statement of Candidacy for Missouri's First Congressional
4 District on October 6, 2015, and on the same day she registered Chappelle-Nadal for Congress as
5 her principal campaign committee.⁵ As of October 29, 2015, the Federal Committee had
6 collected over \$5,000 in contributions, making Chappelle-Nadal a federal candidate under the
7 Act.⁶ She lost to her incumbent opponent in the August 2, 2016 Democratic Primary Election.

8 The Complaints in this matter allege that the Respondents violated the Act's soft money
9 prohibition because the State Committee used soft money to influence Chappelle-Nadal's
10 congressional election and transferred funds to the Federal Committee.⁷ The Act's soft money
11 provision prohibits federal candidates, their agents, and entities established, financed,
12 maintained, or controlled ("EFMC'd") by federal candidates from soliciting, receiving, directing,
13 transferring, or spending funds "in connection" with any federal or non-federal election unless
14 the funds are in amounts and from sources permitted by the Act.⁸

⁴ Amended Statement of Committee Organization, Citizens for Maria Chappelle-Nadal (Jan. 28, 2015). To any extent that the Complaints are alleging that Chappelle-Nadal acted wrongfully in declaring her intent to run for statewide office, without specifying which position she is seeking, that is a matter of Missouri law and outside the Commission's jurisdiction. *See* Compl. at 1 (July 11, 2016); 1st Supp. Compl. at 1 (Aug. 4, 2016); 2nd Suppl. Compl. at 1 (Aug. 30, 2016).

⁵ Statement of Organization, Chappelle-Nadal for Congress (Oct. 6, 2015); Statement of Candidacy, Maria Chappelle-Nadal (Oct. 6, 2015).

⁶ 52 U.S.C. § 30101(2)(A) (stating that a person becomes a "candidate" when she receives contributions aggregating over \$5,000); 2015 Year-End Report, Chappelle-Nadal for Congress (Jan. 29, 2016).

⁷ Under Missouri law, candidates can accept unlimited contributions and contributions from corporations and labor unions. MO. REV. STAT. §§ 130.011-.160 (providing no contribution limit); *id.* § 130.029 (stating that corporations and labor organizations may make contributions).

⁸ 52 U.S.C. § 30125(e)(1)(A)-(B); 11 C.F.R. §§ 300.61-.62. The Commission has concluded that a federal candidate's state committee is an entity EFMC'd by the federal candidate. Advisory Op. 2007-26 (Schock) at 4 ("AO 2007-26"); Advisory Op. 2006-38 (Casey State Committee) at 4 ("AO 2006-38").

1 The Commission has provided guidance on the types of activities that are “in connection”
2 with an election. Such activities include, but are not limited to: (1) contributing to a candidate
3 committee; (2) contributing to a political party organization; (3) soliciting funds for a candidate
4 committee; (4) expending funds to obtain information that will be shared with a candidate
5 committee; (5) expressly advocating the election or defeat of a candidate; and (6) “federal
6 election activity,” as defined by the Act, which includes public communications referring to a
7 clearly identified federal candidate and that promote, support, attack, or oppose (“PASO”) a
8 candidate for that office.⁹

9 A federal candidate who concurrently runs for state or local office may solicit, receive,
10 and spend funds outside of the Act’s amount and source limitations when the solicitations,
11 receipts, and expenditures are solely in connection with her own state or local race.¹⁰ Further,
12 where this exception does not apply, a state committee can comply with the soft money
13 provisions of the Act by using a reasonable accounting method to determine the amount of hard
14 and soft money in its account and then use only the hard money to pay for activities in
15 connection with other candidates’ elections.¹¹

16 As an extension of the Act’s soft money ban, the Commission’s regulations also
17 explicitly prohibit “[t]ransfers of funds or assets from a candidate’s campaign committee or
18 account for a nonfederal election to his or her principal campaign committee or other authorized

⁹ Advisory Op. 2009-26 (State Representative Coulson) at 5 (“AO 2009-26”); AO 2007-26 at 4; AO 2006-38 at 4. “Federal election activity” also includes voter registration activity within 120 days of a federal election; voter identification, get-out-the-vote activity, or generic campaign activity for a federal election; and services provided by certain employees of a political party. 52 U.S.C. § 30101(20); 11 C.F.R. § 100.24.

¹⁰ 52 U.S.C. § 30125(e)(2).

¹¹ AO 2007-26 at 3; AO 2006-38 at 3. For this purpose, the Commission has approved as reasonable the “first in, first out” and “last in, first out” accounting methods. AO 2006-38 at 3. Other accounting methods may also be reasonable.

1 committee for a federal election”¹² The regulations provide, however, that when a
2 candidate has both a federal and nonfederal committee, “at the option of the nonfederal
3 committee, the nonfederal committee may refund contributions, and may coordinate
4 arrangements with the candidate’s principal campaign committee or other authorized committee
5 for a solicitation by such committee(s) to the same contributors.” The solicitations must be paid
6 for by the federal committee(s).¹³

7 Below we examine the application of the soft money prohibition to each of the
8 allegations in the Complaints.

9 **A. State Committee’s Use of Soft Money**

10 1. Contributions to and Expenditures in Support of State and Local
11 Candidates and Committees

12
13 First, the Complaints allege that after Chappelle-Nadal became a federal candidate, the
14 State Committee attempted to influence her federal candidacy by spending money on activities
15 designed to draw new voters to the polls who might also vote for her in the federal election.¹⁴
16 Specifically, the Complaints claim that the State Committee contributed at least \$92,200 to state
17 and local candidates and paid for a mailer endorsing state and local candidates Donna Baringer,
18 Madeline Buthod, and Patty Ellison-Brown.¹⁵

19 The State Committee does not deny that it made contributions to state and local
20 candidates or that it paid for the endorsement mailer. It argues that the contributions complied

¹² 11 C.F.R. § 110.3(d).

¹³ *Id.*

¹⁴ 1st Supp. Compl. at 1, Attach. G (Chris King, *Maria Chappelle-Nadal invests in progressive candidates she think[s] can help her win*, ST. LOUIS AMERICAN, July 21, 2016).

¹⁵ Compl. at 1-2; 1st Supp. Compl. at 1; 2nd Supp. Compl. at 1 & Attach. B.

1 fully with Missouri law and did not implicate the Act. The State Committee also asserts that it
2 has a First Amendment right to endorse candidates and that it properly disclosed the cost of the
3 endorsement mailer as “an in-kind contribution . . . in the 30-Day After Election report.” It
4 insists that its overall strategy to “stimulate new progressive voters to support these state and
5 local candidates” was a “lawful coalition strategy.”¹⁶

6 The State Committee’s disclosure reports show that, from the time Chappelle-Nadal
7 became a federal candidate on October 29, 2015, until the August 2, 2016 Primary Election, the
8 State Committee made \$104,006.58 in disbursements benefiting state and local candidates and
9 chapters of the Democratic Party. These disbursements include: (1) \$91,300 in contributions to
10 state and local Missouri candidates’ campaigns, a sum that is comprised of 29 separate
11 contributions of \$250 to \$25,000 over an 8-month period;¹⁷ (2) \$10,206.58 in expenditures on
12 behalf of state and local Missouri candidates;¹⁸ (3) \$1,500 in contributions to the Missouri
13 Democratic Party;¹⁹ and (4) \$1,000 in contributions to the 4th Ward Democratic Organization.²⁰
14 The available evidence also demonstrates that the State Committee spent an unknown additional
15 sum on the mailer endorsing Baringer, Buthod, and Ellison-Brown.²¹

¹⁶ Maria Chappelle-Nadal Resp. at 2 (Aug. 29, 2016) (“State Committee’s Aug. 29, 2016 Resp.”); Maria Chappelle-Nadal Resp. at 2-3 (Sept. 26, 2016) (“State Committee’s Sept. 26, 2016 Resp.”).

¹⁷ These contributions are scattered across the State Committee’s 2015 and 2016 reports.

¹⁸ All of these expenditure appear on the State Committee’s 2016 30-Day After Primary Election Report. *See* 2016 30-Day After Primary Election Report, Citizens for Maria Chappelle-Nadal (Sept. 1, 2016).

¹⁹ 2016 8-Day Before General Municipal Election Report, Citizens for Maria Chappelle-Nadal (Mar. 28, 2016).

²⁰ 2016 8-Day Before Primary Election Report, Citizens for Maria Chappelle-Nadal (July 25, 2016).

²¹ Despite the State Committee’s representations, the 30-Day After Primary Election Report does not itemize expenditures for an endorsement mailer, or show any contributions to Buthod or Ellison-Brown. *See* 2016 30-Day After Primary Election Report, Citizens for Maria Chappelle-Nadal (Sept. 1, 2016).

1 At the time of these contributions and expenditures, Chappelle-Nadal was a federal
2 candidate, and the State Committee had soft money in its account and was continuing to raise
3 soft money.²² Though it appears that Chappelle-Nadal was simultaneously a candidate for
4 Missouri statewide office, the soft money exception applies only to funds raised and spent for
5 use in connection with one's own state election.²³ While she remained able to solicit and accept
6 soft money funds to spend on her own state race, she was still prohibited from spending those
7 funds on other state and local candidates' races.²⁴ Therefore, because the available evidence
8 shows that the State Committee spent soft money in connection with non-federal elections when
9 it contributed to state or local level candidates, and it has not demonstrated that it had
10 \$104,006.58 of hard money isolated using a reasonable accounting method, the Commission
11 finds reason to believe that Chappelle-Nadal and her State Committee violated the Act's
12 section 30125(e)(1)(B) soft money prohibition.

²² From the beginning of 2013, when it was fundraising for Chappelle-Nadal's 2014 state senatorial race, until August 2016, the State Committee raised a total of \$299,581.80. Of that amount, only \$50,430.37 (16.83%) represented hard money contributions from individuals, federal political actions committees ("PACs"), and partnerships. On the other hand, \$110,460.90 (36.87%) of the contributions came from corporations, labor unions, and federally permissible donors who exceeded the Act's contribution limits. The remaining \$138,690.53 (46.29%) came from limited liability companies ("LLCs"), which may or may not be permissible sources under the Act depending on their federal tax status, *see* 11 C.F.R. § 110.1(g) (stating that an LLC can elect to be treated as a corporation or a partnership by the Internal Revenue Service, and the Commission will defer to that classification in applying the Act); Missouri state PACs, which under state law could accept both hard and soft money contributions; and a mixture of other entities, including business entities with unidentified structures, unregistered PACs, and other state candidate committees. Specifically, LLCs contributed \$45,628.99, state PACs contributed \$82,225.00, and the various undefined entities contributed \$10,836.54. Accordingly, 83.17% of the State Committee's available funds were soft money or potentially soft money.

²³ 52 U.S.C. § 30125(e)(2); MO. REV. STAT. § 130.011 (stating that a person becomes a "candidate" under Missouri law when he or she files a declaration of candidacy).

²⁴ 52 U.S.C. § 30125(e)(2).

2. Television Advertisements

The Complaints also allege that the State Committee, beginning in July 2016, paid Spectrum Reach TM ("Spectrum Reach") \$14,450.85 for 1,119 television advertisements promoting Chappelle-Nadal's federal candidacy.²⁵ The State Committee denies making any in-kind contributions to Chappelle-Nadal's Federal Committee. Respondents explain that Spectrum Reach erroneously billed the State Committee instead of the Federal Committee for the television advertisements. The State Committee wrote a check but realized the error and canceled it. The Respondents assert that the Federal Committee ultimately paid for the commercials and stated that it would disclose the expense on its upcoming Commission report.²⁶ Information available to the Commission confirms that the Federal Committee wrote a \$14,450 check to Spectrum Reach and Spectrum Reach received the check. Further, a review of the Federal Committee's filings shows that the Committee reported the \$14,450 disbursement to Spectrum Reach on its 2016 October Quarterly Report.²⁷

Because the available information shows that the State Committee did not pay Spectrum Reach for television advertisements connected to Chappelle-Nadal's federal candidacy, the Commission finds no reason to believe that the State Committee violated 52 U.S.C. § 30125(e)(1)(A) by making an impermissible in-kind contribution in connection with the television advertisements.

²⁵ 2nd Supp. Compl. at 1 & Attach. A.

²⁶ State Committee's Sept. 26, 2016 Resp. at 2.

²⁷ 2016 October Quarterly Report, Chappelle-Nadal for Congress (Oct. 15, 2016).

1 3. Toxic Waste Newspaper Advertisement

2 The Complaints further allege that the State Committee paid for a radio advertisement for
3 the Federal Committee.²⁸ The Respondents deny that the State Committee paid for a radio
4 advertisement supporting Chappelle-Nadal's federal candidacy. They assert that the expenditure
5 to which the Complaints refer was for a newspaper advertisement in the form of a letter from
6 Chappelle-Nadal to residents of St. Louis, entitled "Radioactive Waste: Toxic Waste Dumped
7 Across St. Louis County." The article detailed the location of the toxic waste and its possible
8 health effects. It then encouraged "everyone to contact their local, state and federal
9 representatives and demand action." The Respondents acknowledge that radioactive waste is a
10 "signature issue" for Chappelle-Nadal, but claim that Chappelle-Nadal published this article as a
11 constituent communication in her continuing role as a state senator, and not as a campaign
12 communication.²⁹

13 As noted above, activities are covered within the scope of section 30125(e) if they are "in
14 connection" with an election, for example, if they solicit funds, expressly advocate for a
15 candidate's election, or constitute "federal election activity" including public communications
16 referring to a clearly identified federal candidate and that PASO a candidate for that office.³⁰ It
17 does not appear that Chappelle-Nadal's newspaper advertisement calling for action on a toxic
18 waste site near St. Louis was connected to any election. The advertisement was a public
19 communication that clearly identified a federal candidate,³¹ Chappelle-Nadal, but the

²⁸ 1st Supp. Compl. at 1.

²⁹ State Committee's Aug. 29, 2016 Resp., Attach. B.

³⁰ AO 2009-26 at 5; AO 2007-26 at 4; AO 2006-38 at 4.

³¹ The Act defines "public communication" to include a communication by means of any newspaper. 52
U.S.C. § 30101(22).

1 Commission has determined that the “mere identification of an individual who is a Federal
2 candidate does not, in itself, promote, support, attack or oppose that candidate.”³² Furthermore,
3 the Commission has concluded that a statement of a federal candidate’s previous or ongoing
4 legislative efforts does not PASO that candidate.³³ Because the newspaper advertisement here
5 simply identified Chappelle-Nadal, discussed her previous efforts to eradicate the toxic waste,
6 and did not identify any other candidate, we conclude the article did not PASO any candidate,
7 and therefore did not qualify as “federal election activity.”

8 In addition, the toxic waste advertisement did not solicit money, gather information about
9 potential voters, or expressly advocate the election or defeat of any candidate. The
10 communication was directed to the constituents of Chappelle-Nadal’s state senatorial district and
11 functioned to raise awareness of a public health risk and propose steps for solving the problem.
12 In doing so, the advertisement was akin to the type of communications commonly produced by
13 state officeholders. The mere fact that Chappelle-Nadal planned to continue her efforts to clean
14 up the waste if elected to Congress did not transform the newspaper advertisement from a
15 constituent communication into a campaign advertisement.³⁴

16 As the available evidence indicates that the State Committee did not publish the toxic
17 waste advertisement “in connection” with any election, the Commission finds no reason to
18 believe that the State Committee violated 52 U.S.C. § 30125(e) by unlawfully spending soft
19 money.

³² AO 2009-26 at 7.

³³ See *id.* at 9 (concluding that a state representative running for Congress could spend soft money on a “health care legislative update” letter to her state constituents because the letter, though it discussed her policy achievements, did not PASO her or any of her opponents).

³⁴ *Id.* (“[A] State officeholder’s declaration of Federal candidacy does not automatically alter the character of the candidate’s activities routinely engaged in as a State officeholder.”).

1 4. Web Services

2 Finally, the Complaints allege that the State Committee paid for the Federal Committee's
3 web services.³⁵ The Complaints observe that the Federal Committee maintains a website,
4 Facebook page, and Twitter account, but has never disclosed any expenses for hosting these
5 platforms. The State Committee, on the other hand, disclosed a \$508 disbursement to Local
6 Politech Strategies for "data maintenance and website hosting" on its 2015 Year-End Report,
7 even though Chappelle-Nadal was not actively campaigning for state office.³⁶ The Complaints
8 therefore allege that the State Committee's disbursement to Local Politech Strategies was for
9 "data maintenance and website hosting" in connection with Chappelle-Nadal's federal
10 campaign.³⁷

11 The State Committee denies paying for the Federal Committee's web expenses. It states
12 that the \$508 disbursement to Local Politech Strategies was for "EyesOnFerguson.com," a now-
13 defunct website Chappelle-Nadal created to inform people living in her state senatorial district
14 about the unrest in Ferguson, and not a payment for the Federal Committee's campaign website
15 and social media accounts.³⁸ The State Committee attached to its Response a copy of an invoice
16 from Local Politech Strategies for \$508.20 in web services. The invoice shows that the State
17 Committee agreed to pay \$36.30 a month beginning in September 2014 for "EyesOnFerguson
18 NationBuilder hosting."³⁹ To explain the Federal Committee's failure to disclose disbursements
19 for web services, Respondents advise that the Progressive Change Campaign Committee

³⁵ Compl. at 1.

³⁶ *Id.*

³⁷ *Id.*

³⁸ State Committee's Aug. 29, 2016 Resp. at 3.

³⁹ *Id.*, Attach. A.

1 provided Chappelle-Nadal's congressional campaign website and social media platforms free of
2 charge, and the Federal Committee would report the services as an in-kind contribution "at the
3 appropriate time."⁴⁰ Based on this information contradicting the Complaints' allegations, the
4 Commission finds no reason to believe that the State Committee made an in-kind contribution of
5 web services to the Federal Committee, in violation of 52 U.S.C. § 30125(e)(1)(A).

6 Nevertheless, the State Committee may still have violated the Act by spending soft
7 money on "EyesOnFerguson.com" if the website was "in connection" with any election. A
8 review of archival images of "EyesOnFerguson.com" shows that the website did not solicit
9 money for any candidate, did not advocate the election or defeat of any candidate, did not gather
10 information for any campaign's use, and did not engage in "federal election activity."⁴¹ As was
11 the case with the toxic waste advertisement, the website's mere identification of Chappelle-
12 Nadal and her involvement with the political events that followed the Ferguson unrest did not
13 PASO her or any other candidate. Accordingly, we conclude that the website was not "in
14 connection" with any election and find no reason to believe that the State Committee's activities
15 violated 52 U.S.C. § 30125(e)(1)(A).

16 **B. Transfers Between State and Federal Committees**

17 Finally, the Complaints allege that the State Committee made two unlawful transfers to
18 the Federal Committee. First, the Complaints allege that the State Committee transferred \$1,000
19 to the Federal Committee on December 31, 2015. The State Committee disclosed the
20 disbursement on its 2015 Year-End Report to the Missouri Ethics Commission, but the Federal

⁴⁰ *Id.* at 3.

⁴¹ *Wayback Machine*, INTERNET ARCHIVE, <http://archive.org/web/> (last visited Jan. 30, 2017) (enter "www.EyesOnFerguson.com" into the search bar to review images of what the now-defunct website once looked like).

1 Committee failed to disclose the transfer on any of its reports.⁴² Second, the Complaints observe
2 from the Committees' reports that Sandy Tsai contributed \$14,000 to the State Committee in
3 2013, but the State Committee refunded the full amount of the contribution on December 10,
4 2015.⁴³ On December 29, 2015, Tsai then made a \$2,500 contribution to the Federal Committee
5 which, the Complaints argue, was another "inappropriate transfer of funds."⁴⁴

6 The State Committee denies that the \$1,000 transfer occurred. It asserts that, while the
7 State Committee wrote a \$1,000 check to the Federal Committee and disclosed the disbursement
8 on its Missouri Ethics Commission Year-End Report, one of the Committees thereafter realized
9 that the transfer should not occur. The State Committee canceled the check before the Federal
10 Committee deposited it, and the State Committee filed an Amended Year-End Report to remove
11 the transfer. Accordingly, the Respondents argue, the transfer never came to fruition.⁴⁵

12 The Respondents do not deny that Tsai received a \$14,000 refund from the State
13 Committee and then made a contribution to the Federal Committee. They state that Tsai
14 requested the refund, and that the State Committee did not violate the Act by complying with her
15 request.⁴⁶

16 The available evidence supports the Respondents' position that the Committees never
17 completed the \$1,000 transfer of funds from the State Committee to the Federal Committee. The
18 State Committee's 2015 Year-End Report disclosed a \$1,000 contribution to the Federal
19 Committee, but the State Committee filed an amended report shortly thereafter, removing the

⁴² Compl. at 1.

⁴³ *Id.*; Amended 2015 Year-End Report, Citizens for Maria Chappelle-Nadal (Feb. 1, 2016).

⁴⁴ Compl. at 1.

⁴⁵ State Committee's Aug. 29, 2016 Resp. at 2-3.

⁴⁶ *Id.* at 2.

1 contribution.⁴⁷ Furthermore, the Federal Committee never reported a \$1,000 transfer or
2 contribution from the State Committee.⁴⁸ These reports corroborate the State Committee's
3 statement that the check was canceled before the Federal Committee could deposit it.

4 The available evidence also indicates that Tsai asked the State Committee to refund her
5 contribution, and there is no evidence that the State Committee paid to solicit her for her
6 subsequent contribution to the Federal Committee. Therefore, the Commission finds no reason
7 to believe that the State Committee violated 52 U.S.C. §§ 30125(e)(1)(A) and 11 C.F.R.
8 § 110.3(d) with regard to the allegations of transfers.

⁴⁷ 2015 Year-End Report, Citizens for Maria Chappelle-Nadal (Jan. 15, 2016); Amended 2015 Year-End Report, Citizens for Maria Chappelle-Nadal (Feb. 1, 2016).

⁴⁸ See 2015 Year-End Report, Chappelle-Nadal for Congress (Jan. 29, 2016).

FEDERAL ELECTION COMMISSION

FACTUAL AND LEGAL ANALYSIS

RESPONDENT: Chappelle-Nadal for Congress and George MUR: 7106
Lenard in his official capacity as treasurer

I. INTRODUCTION

This matter was generated by a Complaint filed with the Federal Election Commission (the "Commission") by Michelle C. Clay. The Complaint, together with its supplements, alleges that Chappelle-Nadal for Congress and George Lenard in his official capacity as treasurer (the "Federal Committee"), Missouri State Senator Chappelle-Nadal's principal campaign committee, violated the soft money prohibitions in the Federal Election Campaign Act of 1971, as amended (the "Act"). The Complaints argue that the Federal Committee accepted in-kind contributions and transfers from Chappelle-Nadal's state committee, Citizens for Maria Chappelle-Nadal (the "State Committee"), and another local committee, and failed to report the transactions.

II. FACTUAL & LEGAL ANALYSIS

In 2003, Chappelle-Nadal registered Citizens for Maria Chappelle-Nadal with the Missouri Ethics Commission. She successfully ran for the Missouri House of Representatives in 2004, 2006, and 2008, and for the Missouri State Senate in 2010 and 2014.¹ After the 2014 election, she was term-limited from running for the Missouri State Senate again.² At that time, she had approximately \$200,000 in her State Committee's account.³ In January 2015,

¹ CO31173: *Citizens for Maria Chappelle-Nadal*, MO. ETHICS COMM'N, http://mec.mo.gov/MEC/Campaign_Finance/CF11_CommInfo.aspx (last visited Jan. 30, 2017).

² MO. CONST. art. III, § 8.

³ 2014 30-Day After General Election Report, Citizens for Maria Chappelle-Nadal (Dec. 4, 2014).

Chappelle-Nadal amended the State Committee's Statement of Organization to reflect that she would be running for statewide office in 2020.⁴

Chappelle-Nadal also filed a Statement of Candidacy for Missouri's First Congressional District on October 6, 2015, and on the same day she registered Chappelle-Nadal for Congress as her principal campaign committee.⁵ As of October 29, 2015, the Federal Committee had collected over \$5,000 in contributions, making Chappelle-Nadal a federal candidate under the Act.⁶ She lost to her incumbent opponent in the August 2, 2016 Democratic Primary Election.

The Complaints in this matter allege that the Federal Committee violated the Act's soft money prohibition because it accepted and failed to report soft money contributions and transfers.⁷ The Act's soft money provision prohibits federal candidates, their agents, and entities established, financed, maintained, or controlled ("EFMC'd") by federal candidates from soliciting, receiving, directing, transferring, or spending funds "in connection" with any federal or non-federal election unless the funds are in amounts and from sources permitted by the Act.⁸

The Commission has provided guidance on the types of activities that are "in connection" with an election. Such activities include, but are not limited to: (1) contributing to a candidate committee; (2) contributing to a political party organization; (3) soliciting funds for a candidate committee; (4) expending funds to obtain information that will be shared with a candidate

⁴ Amended Statement of Committee Organization, Citizens for Maria Chappelle-Nadal (Jan. 28, 2015).

⁵ Statement of Organization, Chappelle-Nadal for Congress (Oct. 6, 2015); Statement of Candidacy, Maria Chappelle-Nadal (Oct. 6, 2015).

⁶ 52 U.S.C. § 30101(2)(A) (stating that a person becomes a "candidate" when she receives contributions aggregating over \$5,000); 2015 Year-End Report, Chappelle-Nadal for Congress (Jan. 29, 2016).

⁷ Under Missouri law, candidates can accept unlimited contributions and contributions from corporations and labor unions. MO. REV. STAT. §§ 130.011-.160 (providing no contribution limit); *id.* § 130.029 (stating that corporations and labor organizations may make contributions).

⁸ 52 U.S.C. § 30125(e)(1)(A)-(B); 11 C.F.R. §§ 300.61-.62.

1 committee; (5) expressly advocating the election or defeat of a candidate; and (6) “federal
2 election activity,” as defined by the Act, which includes public communications referring to a
3 clearly identified federal candidate and that promote, support, attack, or oppose (“PASO”) a
4 candidate for that office.⁹

5 A federal candidate who concurrently runs for state or local office may solicit, receive,
6 and spend funds outside of the Act’s amount and source limitations when the solicitations,
7 receipts, and expenditures are solely in connection with her own state or local race.¹⁰ Further,
8 where this exception does not apply, a state committee can comply with the soft money
9 provisions of the Act by using a reasonable accounting method to determine the amount of hard
10 and soft money in its account and then use only the hard money to pay for activities in
11 connection with other candidates’ elections.¹¹

12 As an extension of the Act’s soft money ban, the Commission’s regulations also
13 explicitly prohibit “[t]ransfers of funds or assets from a candidate’s campaign committee or
14 account for a nonfederal election to his or her principal campaign committee or other authorized
15 committee for a federal election”¹² The regulations provide, however, that when a
16 candidate has both a federal and nonfederal committee, “at the option of the nonfederal
17 committee, the nonfederal committee may refund contributions, and may coordinate

⁹ Advisory Op. 2009-26 (State Representative Coulson) at 5 (“AO 2009-26”); Advisory Op. 2007-26 (Schock) at 4 (“AO 2007-26”); Advisory Op. 2006-38 (Casey State Committee) at 4 (“AO 2006-38”). “Federal election activity” also includes voter registration activity within 120 days of a federal election; voter identification, get-out-the-vote activity, or generic campaign activity for a federal election; and services provided by certain employees of a political party. 52 U.S.C. § 30101(20); 11 C.F.R. § 100.24.

¹⁰ 52 U.S.C. § 30125(e)(2).

¹¹ AO 2007-26 at 3; AO 2006-38 at 3. For this purpose, the Commission has approved as reasonable the “first in, first out” and “last in, first out” accounting methods. AO 2006-38 at 3. Other accounting methods may also be reasonable.

¹² 11 C.F.R. § 110.3(d).

1 arrangements with the candidate's principal campaign committee or other authorized committee
2 for a solicitation by such committee(s) to the same contributors." The solicitations must be paid
3 for by the federal committee(s).¹³

4 Below we examine the application of the soft money prohibition to each of the
5 allegations in the Complaints. We note that, during the relevant time period, the State
6 Committee had soft money in its account and was continuing to raise soft money.¹⁴

7 **A. Unlawful In-Kind Contributions from State Committee**

8 **1. Television Advertisements**

9 The Complaints allege that the State Committee, beginning in July 2016, paid Spectrum
10 Reach TM ("Spectrum Reach") \$14,450.85 for 1,119 television advertisements promoting
11 Chappelle-Nadal's federal candidacy, and that the Federal Committee failed to disclose this in-
12 kind contribution.¹⁵ The Federal Committee denies accepting any in-kind contributions from
13 Chappelle-Nadal's State Committee. Respondent explains that Spectrum Reach erroneously
14 billed the State Committee instead of the Federal Committee for the television advertisements.
15 The State Committee wrote a check but realized the error and canceled it. The Federal
16 Committee asserts that it ultimately paid for the commercials and stated that it would disclose the
17 expense on its upcoming Commission report.¹⁶ The Federal Committee also provided a copy of
18 a \$14,450 check from the Federal Committee to Spectrum Reach and Spectrum Reach's
19 confirmation of receipt of the check.¹⁷ Further, a review of the Federal Committee's filings

¹³ *Id.*

¹⁴ See generally the State Committee's 2015 and 2016 reports.

¹⁵ 2nd Supp. Compl. at 1 & Attach. A (Aug. 30, 2016).

¹⁶ Resp. at 2 (Sept. 26, 2016).

¹⁷ *Id.*, Attachs. A-B.

1 shows that the Committee reported the \$14,450 disbursement to Spectrum Reach on its 2016
2 October Quarterly Report.¹⁸

3 Because the available information shows that the State Committee did not pay Spectrum
4 Reach for television advertisements connected to Chappelle-Nadal's federal candidacy, the
5 Commission finds no reason to believe that the Federal Committee violated 52 U.S.C.
6 § 30125(e)(1)(A) by accepting an impermissible in-kind contribution in connection with the
7 television advertisements, or that it violated 52 U.S.C. § 30104(b) and 11 C.F.R. § 104.13(a) by
8 failing to report the alleged in-kind contribution from the State Committee.

9 2. Toxic Waste Newspaper Advertisement

10 The Complaints further allege that the State Committee paid for a radio advertisement for
11 the Federal Committee, and that the Federal Committee failed to disclose the in-kind
12 contribution.¹⁹ The Federal Committee denies that the State Committee paid for a radio
13 advertisement supporting Chappelle-Nadal's federal candidacy. It asserts that the expenditure to
14 which the Complaints refer was for a newspaper advertisement in the form of a letter from
15 Chappelle-Nadal to residents of St. Louis, entitled "Radioactive Waste: Toxic Waste Dumped
16 Across St. Louis County." The article detailed the location of the toxic waste and its possible
17 health effects. It then encouraged "everyone to contact their local, state and federal
18 representatives and demand action." The Federal Committee acknowledges that radioactive
19 waste is a "signature issue" for Chappelle-Nadal, but claims that Chappelle-Nadal published this

¹⁸ 2016 October Quarterly Report, Chappelle-Nadal for Congress (Oct. 15, 2016).

¹⁹ 1st Supp. Compl. at 1 (Aug. 4, 2016).

1 article as a constituent communication in her continuing role as a state senator, and not as a
2 campaign communication.²⁰

3 As noted above, activities are covered within the scope of section 30125(e) if they are “in
4 connection” with an election, for example, if they solicit funds, expressly advocate for a
5 candidate’s election, or constitute “federal election activity” including public communications
6 referring to a clearly identified federal candidate and that PASO a candidate for that office.²¹ It
7 does not appear that Chappelle-Nadal’s newspaper advertisement calling for action on a toxic
8 waste site near St. Louis was connected to any election. The advertisement was a public
9 communication that clearly identified a federal candidate,²² Chappelle-Nadal, but the
10 Commission has determined that the “mere identification of an individual who is a Federal
11 candidate does not, in itself, promote, support, attack or oppose that candidate.”²³ Furthermore,
12 the Commission has concluded that a statement of a federal candidate’s previous or ongoing
13 legislative efforts does not PASO that candidate.²⁴ Because the newspaper advertisement here
14 simply identified Chappelle-Nadal, discussed her previous efforts to eradicate the toxic waste,
15 and did not identify any other candidate, we conclude the article did not PASO any candidate,
16 and therefore did not qualify as “federal election activity.”

²⁰ Resp. at 2 (Aug. 29, 2016) (“Aug. 29, 2016 Resp.”).

²¹ AO 2009-26 at 5; AO 2007-26 at 4; AO 2006-38 at 4.

²² The Act defines “public communication” to include a communication by means of any newspaper. 52 U.S.C. § 30101(22).

²³ AO 2009-26 at 7.

²⁴ See *id.* at 9 (concluding that a state representative running for Congress could spend soft money on a “health care legislative update” letter to her state constituents because the letter, though it discussed her policy achievements, did not PASO her or any of her opponents).

1 In addition, the toxic waste advertisement did not solicit money, gather information about
2 potential voters, or expressly advocate the election or defeat of any candidate. The
3 communication was directed to the constituents of Chappelle-Nadal's state senatorial district and
4 functioned to raise awareness of a public health risk and propose steps for solving the problem.
5 In doing so, the advertisement was akin to the type of communications commonly produced by
6 state officeholders. The mere fact that Chappelle-Nadal planned to continue her efforts to clean
7 up the waste if elected to Congress did not transform the newspaper advertisement from a
8 constituent communication into a campaign advertisement.²⁵

9 As the available evidence indicates that the State Committee did not publish the toxic
10 waste advertisement "in connection" with any election, the Commission finds no reason to
11 believe that the Federal Committee violated 52 U.S.C. § 30125(e) by unlawfully receiving soft
12 money. As such, the Commission also finds no reason to believe that the Federal Committee
13 violated 52 U.S.C. § 30104(b) and 11 C.F.R. § 104.13(a) by failing to report an in-kind
14 contribution from the State Committee.

15 3. Web Services

16 Finally, the Complaints allege that the State Committee paid for the Federal Committee's
17 web services, and that the Federal Committee failed to disclose the in-kind contribution from the
18 State Committee.²⁶ The Complaints observe that the Federal Committee maintains a website,
19 Facebook page, and Twitter account, but has never disclosed any expenses for hosting these
20 platforms. The State Committee, on the other hand, disclosed a \$508 disbursement to Local

²⁵ *Id.* ("[A] State officeholder's declaration of Federal candidacy does not automatically alter the character of the candidate's activities routinely engaged in as a State officeholder.").

²⁶ Compl. at 1 (July 11, 2016).

1 Politech Strategies for “data maintenance and website hosting” on its 2015 Year-End Report,
2 even though Chappelle-Nadal was not actively campaigning for state office.²⁷ The Complaints
3 therefore allege that the State Committee’s disbursement to Local Politech Strategies was for
4 “data maintenance and website hosting” in connection with Chappelle-Nadal’s federal
5 campaign.²⁸

6 The Commission is in possession of information indicating that the State Committee’s
7 \$508 disbursement to Local Politech Strategies was for “EyesOnFerguson.com,” a now-defunct
8 website Chappelle-Nadal created to inform people living in her state senatorial district about the
9 unrest in Ferguson. The available information indicates that the Progressive Change Campaign
10 Committee (“PCCC”) provided Chappelle-Nadal’s congressional campaign website and social
11 media platforms free of charge. Based on this information contradicting the Complaints’
12 allegations, the Commission finds no reason to believe that the Federal Committee accepted and
13 failed to report an in-kind contribution of web services from the State Committee, in violation of
14 52 U.S.C. §§ 30104(b) and 30125(e)(1)(A) and 11 C.F.R. § 104.13(a).

15 We note, however, that the Federal Committee was receiving in-kind contributions from
16 the PCCC for web services, and a review of the Federal Committee’s Commission reports shows
17 that it has failed to disclose those contributions. The potential amount in violation appears to be
18 *de minimis*, though—given that Chappelle-Nadal for Congress’s campaign website
19 (“maria2016.com”) was not particularly sophisticated and hosting “EyesOnFerguson.com,”
20 which was comparable in sophistication, appears to have cost only \$36.30 a month.

²⁷ *Id.*

²⁸ *Id.*

1 Accordingly, the Commission dismisses the allegation that the Federal Committee violated 52
2 U.S.C. § 30104(b) and 11 C.F.R. § 104.3(a) by failing to disclose the in-kind contribution of web
3 services.²⁹

4 **B. Unlawful In-Kind Contribution from Other Non-Federal Committee**

5 The Complaints further allege that the Federal Committee instructed Marty Murray—a
6 local candidate who received a contribution from the State Committee—to use soft money in his
7 campaign account to pay for a door hanger supporting Chappelle-Nadal’s congressional
8 candidacy.³⁰ The Complaints appear to argue that the Federal Committee directed the use of soft
9 money and produced a coordinated communication with Murray, which it failed to disclose as an
10 in-kind contribution.³¹ In support of this allegation, the Complaints reference a picture from an
11 online news article that shows Murray handing a Chappelle-Nadal door hanger to a resident.³²

12 The Federal Committee denies any wrongdoing with regard to the door hanger. It
13 explains that the door hanger actually had two sides—one side supporting Chappelle-Nadal for
14 Congress and the other side supporting Murray for Seventh Ward Committeeman. The Federal
15 Committee states that it “split” the cost of the door hanger with Murray’s committee.³³ An
16 attached copy of the door hanger shows that each candidate used one side of the door hanger,
17 with Chappelle-Nadal’s side bearing a “Paid for by Chappelle-Nadal for Congress” disclaimer,

²⁹ Cf. *Heckler v. Chaney*, 470 U.S. 821 (1985).

³⁰ See 1st Supp. Compl. at 1 & Attach. F (Rachel Lippmann, ‘*Young Turks*’ in the city look to shape Democratic Party, one seat at a time, ST. LOUIS PUBLIC RADIO, July 21, 2016).

³¹ *Id.* at 1.

³² *Id.* at 1 & Attach. F.

³³ Aug. 29, 2016 Resp. at 2-3.

1 and Murray's side bearing a "Paid for by the Committee to Elect Marty Murray" disclaimer.³⁴
2 The Federal Committee also attached to its Response a June 10, 2016 invoice for 500 door
3 hangers from Ink Spot, Inc., and a check from the Federal Committee to Ink Spot, Inc. written on
4 the same day.³⁵

5 When a person produces a communication at the request or suggestion of a candidate or
6 her authorized committee, the communication is coordinated and must be reported by the
7 committee as an in-kind contribution.³⁶ A state or local candidate can, however, partner with
8 federal candidates to produce a communication supporting all of their campaigns without making
9 a coordinated expenditure.³⁷ So long as each candidate pays for her allocable share of the
10 communication, no candidate makes a coordinated expenditure or contribution to any other.³⁸
11 The Commission's regulations state that, when candidates partner to make a publication, they
12 must allocate the costs based on "the proportion of space . . . devoted to each candidate as
13 compared to the total space . . . devoted to all candidates."³⁹

14 The available evidence indicates that Chappelle-Nadal and Murray partnered in the
15 production of the door hanger at issue. Each candidate occupied one half of the space on the

³⁴ *Id.*, Attach. A.

³⁵ *Id.*, Attachs. B-C. The invoice was for \$167.37, while the check was for \$292.35. *Id.*, Attachs. B-C. The Federal Committee does not explain the discrepancy. However, it does not appear that Chappelle-Nadal for Congress paid for Murray's half of the door hangers because \$167.37 doubled is \$334.74.

³⁶ 52 U.S.C. § 30116(a)(7)(B); 11 C.F.R. § 109.21(b)(1).

³⁷ 11 C.F.R. § 106.1(a).

³⁸ Advisory Op. 2006-11 (Washington Democratic State Central Committee) at 3 ("AO 2006-11") (concluding that a state political party that wished to distribute a flier featuring one clearly identified federal candidate with other "generically referenced candidates of the State Party Committee" had to pay for the correct proportion of the space used to promote the non-federal candidates, or it would be making a contribution to the federal candidate or a coordinated expenditure with the federal candidate).

³⁹ 11 C.F.R. § 106.1(a). While this regulation applies only to expenditures made on behalf of "more than one clearly identified federal candidate," the Commission has applied the principle of allocation to situations in which only one federal candidate appears in a communication. See AO 2006-11 at 2-4.

1 door hanger, and each candidate appears to have paid for one half of the costs associated with the
2 door hanger. Therefore, the candidates correctly allocated the costs and avoided making a
3 contribution to the other's committee.

4 Because Murray did not make a contribution to Chappelle-Nadal's Federal Committee, or
5 a coordinated expenditure on her behalf, the Federal Committee did not have an obligation to
6 report a contribution from Murray. Furthermore, because Chappelle-Nadal paid for her allocable
7 share of the door hanger with funds from her Federal Committee, there was no soft money
8 violation. The Commission therefore finds no reason to believe that the Federal Committee
9 violated 52 U.S.C. §§ 30104(b), 30125(e)(1)(A), or 11 C.F.R. § 104.13(a) with regard to the door
10 hanger.

11 **C. Prohibited Transfers Between State and Federal Committees**

12 Finally, the Complaints allege that the Federal Committee accepted two unlawful
13 transfers from the State Committee. First, the Complaints allege that the State Committee
14 transferred \$1,000 to the Federal Committee on December 31, 2015. The State Committee
15 disclosed the disbursement on its 2015 Year-End Report to the Missouri Ethics Commission, but
16 the Federal Committee failed to disclose the transfer on any of its reports.⁴⁰ Second, the
17 Complaints observe from the Committees' reports that Sandy Tsai contributed \$14,000 to the
18 State Committee in 2013, but the State Committee refunded the full amount of the contribution
19 on December 10, 2015.⁴¹ On December 29, 2015, Tsai then made a \$2,500 contribution to the

⁴⁰ Compl. at 1.

⁴¹ *Id.*; Amended 2015 Year-End Report, Citizens for Maria Chappelle-Nadal (Feb. 1, 2016).

1 Federal Committee which, the Complaints argue, was another “inappropriate transfer of
2 funds.”⁴²

3 The Federal Committees denies that the \$1,000 transfer occurred. It asserts that, while
4 the State Committee wrote a \$1,000 check and disclosed the disbursement on its Missouri Ethics
5 Commission Year-End Report, one of the Committees thereafter realized that the transfer should
6 not occur. The State Committee canceled the check before the Federal Committee deposited it,
7 and the State Committee filed an Amended Year-End Report to remove the transfer.

8 Accordingly, the Federal Committee argues, the transfer never came to fruition, and it did not
9 have a reporting obligation because it never deposited the check.⁴³

10 The Federal Committee does not deny that Tsai received a \$14,000 refund from the State
11 Committee and then made a contribution to the Federal Committee. It states that Tsai requested
12 the refund.⁴⁴

13 The available evidence supports the Respondent’s position that the Committees never
14 completed the \$1,000 transfer of funds from the State Committee to the Federal Committee. The
15 State Committee’s 2015 Year-End Report disclosed a \$1,000 contribution to the Federal
16 Committee, but the State Committee filed an amended report shortly thereafter, removing the
17 contribution.⁴⁵ The Federal Committee never reported a \$1,000 transfer or contribution from the

⁴² Compl. at 1.

⁴³ Resp. at 2 (Aug. 3, 2016).

⁴⁴ *Id.* at 1.

⁴⁵ 2015 Year-End Report, Citizens for Maria Chappelle-Nadal (Jan. 15, 2016); Amended 2015 Year-End Report, Citizens for Maria Chappelle-Nadal (Feb. 1, 2016).

1 State Committee.⁴⁶ These reports corroborate the Federal Committee's statement that the check
2 was canceled before it was deposited.

3 Furthermore, the Commission's published guidance to congressional candidate
4 committees states that there is no reporting obligation when a committee returns a contribution to
5 a donor without depositing it.⁴⁷ A "return" is analogous to the situation presented in this matter,
6 as the Federal Committee never deposited the check, and the funds reverted back to the State
7 Committee. Thus, treating the transaction here as a kind of return, the Federal Committee was
8 not required to report a \$1,000 transfer.

9 The available evidence also indicates that Tsai asked the State Committee to refund her
10 contribution, and there is no evidence that the State Committee paid to solicit her for her
11 subsequent contribution to the Federal Committee. Therefore, the Commission finds no reason
12 to believe that the Federal Committee violated 52 U.S.C. §§ 30125(e)(1)(A), 30104(b), and
13 11 C.F.R. § 110.3(d) with regard to the allegations of transfers and the alleged reporting
14 deficiency.

⁴⁶ See 2015 Year-End Report, Chappelle-Nadal for Congress (Jan. 29, 2016).

⁴⁷ FED. ELECTION COMM., *Federal Election Commission Campaign Guide: Congressional Candidates and Committees* (June 2014) at 112, available at <http://www.fec.gov/pdf/candgui.pdf> ("[A] committee may return a contribution to the donor without depositing it, although the return must be made within 10 days In this case, the committee does not have to report").

FEDERAL ELECTION COMMISSION

FACTUAL AND LEGAL ANALYSIS

RESPONDENT: Citizens for Maria Chappelle-Nadal and Neva Taylor in her official capacity as treasurer MUR: 7108

I. INTRODUCTION

This matter was generated by a Complaint filed with the Federal Election Commission (the "Commission") by Mary Patricia Dorsey. The Complaint alleges that Citizens for Maria Chappelle-Nadal (the "State Committee") violated the Federal Election Campaign Act of 1971, as amended (the "Act"), by directing other state and local candidates to spend soft money to print and distribute a door hanger supporting Maria Chappelle-Nadal's federal congressional candidacy.

II. FACTUAL & LEGAL ANALYSIS

A. Factual Background

Maria Chappelle-Nadal is a Missouri State Senator who is running for statewide office in 2020.¹ During the 2016 election cycle, Chappelle-Nadal also ran for Congress.² The Complaint observes that the State Committee donated money to other state and local candidates and committees, including Jay Mosley and Rochelle Walton Gray, while Chappelle-Nadal was a federal candidate.³

The Complainant states that she received a door hanger promoting Chappelle-Nadal's congressional candidacy in June 2016.⁴ She attached a copy of the door hanger to the

¹ See Compl. at 1 (July 18, 2016); Amended Statement of Committee Organization, Citizens for Maria Chappelle-Nadal (Jan. 28, 2015).

² See Compl. at 1; Statement of Organization, Chappelle-Nadal for Congress (Oct. 6, 2015); Statement of Candidacy, Maria Chappelle-Nadal (Oct. 6, 2015).

³ See Compl. at 1.

⁴ *Id.*

1 Complaint. The door hanger encourages people to “Vote Democratic & Elect” Chappelle-Nadal
2 and state and local candidates Jay Mosley, Rochelle Walton Gray, Tony Weaver, and Linda
3 Weaver. The front of the door hanger has pictures of each candidate and, on the back, there is
4 more information about Jay Mosley and Rochelle Walton Gray and a disclaimer that states,
5 “Paid for by Citizens to Elect Gray, Angela Mosley, Treasurer & by Citizens to Elect Jay
6 Mosley, LLC, Angela Mosley, Treasurer.”⁵

7 The Complaint alleges that, after the State Committee gave money to Citizens to Elect
8 Gray and Citizens to Elect Jay Mosley State Committee LLC, it directed those committees, along
9 with Linda Weaver, to spend funds on the door hanger.⁶ The Complaint therefore alleges that
10 the State Committee violated the Act by directing the use of non-federal funds in connection
11 with a federal election.⁷

12 In response, the State Committee denies coordinating with Gray and Mosley. It states
13 that the contributions made by the State Committee to Gray and Mosley were solely for the
14 purpose of supporting their campaigns and any “[d]ecisions concerning expenditure of those
15 funds, once contributed, were entirely at the discretion of the Gray and Mosley candidate
16 committees.”⁸

17 The Commission is also in possession of additional information indicating that, despite
18 the disclaimer on the door hanger, Citizens to Elect Gray paid for the entirety of the
19 communication, and Mosley and Weaver did not pay for any portion. The additional information

⁵ *Id.*, Attach. A.

⁶ *Id.* at 1.

⁷ *Id.*

⁸ Resp. at 2 (Aug. 15, 2016).

1 in the Commission's possession further indicates that Gray denies coordinating with the State
2 Committee regarding the door hanger.

3 **B. Legal Analysis**

4 The Act's soft money provision prohibits federal candidates, their agents, and entities
5 established, financed, maintained, or controlled ("EFMC'd") by federal candidates from
6 soliciting, receiving, directing, transferring, or spending funds "in connection" with any federal
7 election unless the funds are in amounts and from sources permitted by the Act.⁹ Under
8 Missouri law, candidates can accept unlimited contributions and contributions from corporations
9 and labor unions.¹⁰ Therefore, Missouri allows candidates to collect funds in excess of federal
10 limitations and from sources prohibited by the Act, *i.e.* soft money.¹¹

11 In this case, the State Committee, an entity EFMC'd by congressional candidate
12 Chappelle-Nadal, has denied directing Citizens to Elect Gray, a Missouri political committee free
13 to collect soft money, to pay for the door hanger.¹² The State Committee's denial is supported
14 by additional evidence in the record. As there is no evidence that the State Committee directed
15 Citizens to Elect Gray to spend soft money on the door hanger, the Commission finds no reason
16 to believe that the State Committee violated 52 U.S.C. § 30125(e)(1)(A).

⁹ 52 U.S.C. § 30125(e)(1)(A)-(B); 11 C.F.R. §§ 300.61-.62. The Commission has concluded that a federal candidate's state committee is an entity EFMC'd by the federal candidate. Advisory Op. 2007-26 (Schock) at 4; Advisory Op. 2006-38 (Casey State Committee) at 4.

¹⁰ MO. REV. STAT. §§ 130.011-.160 (providing no contribution limit); *id.* § 130.029 (stating that corporations and labor organizations may make contributions).

¹¹ 52 U.S.C. § 30116(a)(1)(A) (providing the individual contribution limit); *Contribution Limits for 2015-2016 Federal Elections*, FED. ELECTION COMM'N, <http://www.fec.gov/info/contriblimitschart1516.pdf> (last visited Jan. 30, 2017) (stating that the indexed individual contribution limit to a candidate and her authorized committee is \$2,700 per person, per election); *see also* 52 U.S.C. § 30118(a) (prohibiting corporations and labor unions from contributing to candidates and political committees).

¹² *See Resp.* at 2.

FEDERAL ELECTION COMMISSION

FACTUAL AND LEGAL ANALYSIS

RESPONDENT: Chappelle-Nadal for Congress and George MUR: 7108
Lenard in his official capacity as treasurer

I. INTRODUCTION

This matter was generated by a Complaint filed with the Federal Election Commission (the "Commission") by Mary Patricia Dorsey. The Complaint alleges that Chappelle-Nadal for Congress and George Lenard in his official capacity as treasurer (the "Federal Committee") violated the Federal Election Campaign Act of 1971, as amended (the "Act"), by directing state and local candidates to spend soft money to print and distribute a door hanger supporting Maria Chappelle-Nadal's federal candidacy. The Complaint also alleges that the Federal Committee coordinated the communication with the non-federal candidates, making expenditures for the door hanger in-kind contributions that the Federal Committee failed to report.

II. FACTUAL & LEGAL ANALYSIS

A. Factual Background

Maria Chappelle-Nadal is a Missouri State Senator who is running for statewide office in 2020.¹ During the 2016 election cycle, Chappelle-Nadal also ran for Congress.² The Complaint observes that Chappelle-Nadal's state committee, Citizens for Maria Chappelle-Nadal (the "State Committee"), donated money to other state and local candidates and committees, including Jay Mosley and Rochelle Walton Gray.³

¹ See Compl. at 1 (July 18, 2016); Amended Statement of Committee Organization, Citizens for Maria Chappelle-Nadal (Jan. 28, 2015).

² See Compl. at 1; Statement of Organization, Chappelle-Nadal for Congress (Oct. 6, 2015); Statement of Candidacy, Maria Chappelle-Nadal (Oct. 6, 2015).

³ See Compl. at 1.

1 The Complainant states that she received a door hanger promoting Chappelle-Nadal's
2 congressional candidacy in June 2016.⁴ She attached a copy of the door hanger to the
3 Complaint. The door hanger encourages people to "Vote Democratic & Elect" Chappelle-Nadal
4 and state and local candidates Jay Mosley, Rochelle Walton Gray, Tony Weaver, and Linda
5 Weaver. The front of the door hanger has pictures of each candidate and, on the back, there is
6 more information about Jay Mosley and Rochelle Walton Gray and a disclaimer that states,
7 "Paid for by Citizens to Elect Gray, Angela Mosley, Treasurer & by Citizens to Elect Jay
8 Mosley, LLC, Angela Mosley, Treasurer."⁵

9 The Complaint alleges that, after the State Committee gave money to Citizens to Elect
10 Gray and Citizens to Elect Jay Mosley State Committee LLC, the Federal Committee directed
11 those committees, along with Linda Weaver, to spend funds on the door hanger.⁶ The Complaint
12 therefore alleges that the Federal Committee violated the Act by directing the use of non-federal
13 funds in connection with a federal election. Because the Federal Committee allegedly requested
14 that Gray, Mosley, and Weaver produce and distribute the door hanger, the Complaint also
15 argues that the door hanger was a coordinated communication that the Federal Committee failed
16 to report as an in-kind contribution.⁷

17 In response, the Federal Committee denies coordinating with Gray and Mosley. It states
18 that the contributions made by the State Committee to Gray and Mosley were solely for the
19 purpose of supporting their campaigns and any "[d]ecisions concerning expenditure of those

⁴ *Id.*

⁵ *Id.*, Attach. A.

⁶ *Id.* at 1.

⁷ *See id.*

1 funds, once contributed, were entirely at the discretion of the Gray and Mosley candidate
2 committees.”⁸

3 The Commission is also in possession of additional information indicating that, despite
4 the disclaimer on the door hanger, Citizens to Elect Gray paid for the entirety of the
5 communication, and Mosley and Weaver did not pay for any portion. The additional information
6 in the Commission’s possession further indicates that Gray has denied coordinating with the
7 Federal Committee regarding the door hanger.

8 B. Legal Analysis

9 The Act’s soft money provision prohibits federal candidates, their agents, and entities
10 established, financed, maintained, or controlled (“EFMC’d”) by federal candidates from
11 soliciting, receiving, directing, transferring, or spending funds “in connection” with any federal
12 election unless the funds are in amounts and from sources permitted by the Act.⁹ Under
13 Missouri law, candidates can accept unlimited contributions and contributions from corporations
14 and labor unions.¹⁰ Therefore, Missouri allows candidates to collect funds in excess of federal
15 limitations and from sources prohibited by the Act, *i.e.* soft money.¹¹ Furthermore, when a
16 person produces a communication at the request or suggestion of a candidate or her authorized

⁸ Resp. at 2 (Aug. 15, 2016).

⁹ 52 U.S.C. § 30125(e)(1)(A)-(B); 11 C.F.R. §§ 300.61-.62.

¹⁰ MO. REV. STAT. §§ 130.011-.160 (providing no contribution limit); *id.* § 130.029 (stating that corporations and labor organizations may make contributions).

¹¹ 52 U.S.C. § 30116(a)(1)(A) (providing the individual contribution limit); *Contribution Limits for 2015-2016 Federal Elections*, FED. ELECTION COMM’N, <http://www.fec.gov/info/contriblimitschart1516.pdf> (last visited Jan. 30, 2017) (stating that the indexed individual contribution limit to a candidate and her authorized committee is \$2,700 per person, per election); *see also* 52 U.S.C. § 30118(a) (prohibiting corporations and labor unions from contributing to candidates and political committees).

1 committee, the communication is coordinated and must be reported by the committee as an in-
2 kind contribution.¹²

3 In this case, the Federal Committee, an entity EFMC'd by congressional candidate
4 Chappelle-Nadal, has denied directing Citizens to Elect Gray, a Missouri political committee free
5 to collect soft money, to pay for the door hanger.¹³ The Federal Committee's denial is supported
6 by additional evidence in the record. As there is no evidence that the Federal Committee
7 directed Citizens to Elect Gray to spend soft money on the door hanger, the Commission finds no
8 reason to believe that the Federal Committee violated 52 U.S.C. § 30125(e)(1)(A). Relatedly,
9 because there is no evidence that the Federal Committee coordinated with Citizens to Elect Gray
10 in the creation and distribution of the door hanger,¹⁴ the Federal Committee did not have to
11 report the door hanger as an in-kind contribution. Therefore, the Commission also finds no
12 reason to believe that the Federal Committee violated 52 U.S.C. § 30104(b) and the reporting
13 requirements at 11 C.F.R. § 104.13(a).

¹² 52 U.S.C. § 30116(a)(7)(B); 11 C.F.R. § 109.21(b)(1).

¹³ See Resp. at 2.

¹⁴ In order for an activity to be coordinated under the Commission's regulations, among other requirements, it must meet at least one of five enumerated conduct standards. 11 C.F.R. § 109.21(a)(3). Those standards are: request or suggestion; material involvement; substantial discussion; common vendor; and former employee or independent contractor. *Id.* § 109.21(c)(1)-(5); *see also* 52 U.S.C. § 30116(a)(7)(B). There is no evidence relating to any of these standards.